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June 24, 2020

Via Certified Mail/Return Receipt Requested

Tom Bundros
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Tom Bundros
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Mr. Andrew Wheeler, Administrator
Environmental Protection Agency
Office of the Administrator
Mail Code 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: <u>Notice of Intent to File Citizen Suit Pursuant to the Federal Clean Water Act</u>

Ladies and Gentlemen:

The purpose of this letter is to notify Dalton Utilities and the Water, Light, and Sinking Fund Commission of the City of Dalton, Georgia (collectively "Dalton Utilities"), owner and operator of various wastewater collection/treatment facilities and the associated Riverbend Wastewater Land Application System ("LAS"), located on Riverbend Road in Whitfield and Murray Counties, Georgia, that Mr. Jarrod Johnson intends to file suit in sixty (60) days under 33 U.S.C. § 1365(a)(1) of the Federal Clean Water Act ("CWA") in Federal District Court against Dalton Utilities for longstanding and ongoing violations of the Clean Water Act arising out of illegal discharges of per- and polyfluoroalkyl substances from the LAS into the Conasauga River and its tributaries.

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This letter also provides the required notice to the Environmental Protection Agency and the Georgia Department of Natural Resources. As required by 40 C.F.R. § 135.3(a), Mr. Johnson's address and telephone number are:

(b) (6)

However, Mr. Johnson should only be contacted through his legal counsel:

Gary A. Davis James S. Whitlock DAVIS & WHITLOCK, P.C.[1] 21 Battery Park Avenue, Suite 206 Asheville, NC 28801	F. Jerome Tapley Ryan Lutz Brett Thompson Cory Watson, P.C. 2131 Magnolia Avenue South Birmingham, AL 35205	Ryals D. Stone William S. Stone Stone Law Group, Trial Lawyers LLC 589 College St. Blakely, GA 39823

Mr. Johnson is an owner and occupant of real property in Rome, Floyd County, Georgia, and receives his domestic water supply from the City of Rome Water and Sewer Division ("RWSD" or "City of Rome"). He has a particular interest in protecting the water quality of the Conasauga River and its tributaries in and around, and downstream from, Dalton Utilities' LAS, as well as the downstream Oostanaula River. The LAS borders the Conasauga River, which then flows into the Oostanaula River, the source of the primary water intake for the RWSD. The illegal discharges by Dalton Utilities addressed herein have contaminated both the Conasauga River and the Oostanaula River, as well as the City of Rome's drinking water supply, with toxic chemicals known collectively as per-and polyfluoroalkyl substances ("PFAS"). As a result, Mr. Johnson has suffered and continues to suffer concrete and particularized injuries that are redressable in a CWA citizen suit.

BACKGROUND

Dalton Utilities

The City of Dalton is known as the carpet capital of the world and contains over 150 carpet manufacturing plants and 100 outlet stores, accounting for approximately 80% of the carpet manufactured and sold worldwide. The Water, Light, and Sinking Fund Commission of the City of Dalton, Georgia, governs the operations of Dalton Utilities, which operates the Riverbend, Loopers Bend, and Abutment Road Water Pollution Control Plants ("WPCPs") as well as the Riverbend LAS.[2] After collection/treatment of wastewater at these WPCPs, the wastewater effluent is applied to the approximate 9,800 acre LAS using approximately 19,000 sprayheads.

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[1] Applications for admission *Pro Hac Vice* pending in *Johnson v. 3M Company, et al,* Civil No. 4:20-cv-0008 AT (N.D. Ga.).

[2] According to the Environmental Protection Agency ("EPA"), approximately 90% of the wastewater which enters these treatment facilities for disposal at the LAS originates from industrial sources, primarily carpet manufacturers. EPA, *Region 4 Enforcement and Compliance Assurance Accomplishments Report*, FY 2001; EPA, *Fact Sheet: Perfluorochemical (PFC) Contamination of Compost from Dalton Utilities, Dalton, Georgia,* Oct. 2010.

The treatment technology utilized by these mechanical preapplication WPCPs cannot remove PFAS from the wastewater prior to application of this effluent to the LAS.

Dalton Utilities' wastewater collection and disposal system is a "no discharge" system, the operation of which is governed by the terms and conditions of Land Application Permit No. GAJ020056 ("LAS Permit"). The LAS Permit authorizes Dalton Utilities to discharge up to 30 million gallons per day ("MGD") of wastewater effluent to the LAS; however, among other things, the LAS Permit expressly prohibits any discharge from the LAS to surface waters. Despite this prohibition, EPA has determined that a "significant amount" of the effluent sprayed onto the LAS "leaves the [LAS] via surface waters and enters the Conasauga River."[3]

Per- and Polyfluoroalkyl Substances ("PFAS")

PFAS are a group of toxic man-made chemicals not found naturally in the environment. Because of their strong carbon-fluorine bonds, PFAS are extremely stable, repel water and oil, and are resistant to heat and chemical reactions. These properties have made these chemicals particularly useful in many industrial and commercial applications, including surface protection products used in the manufacturing of carpets. However, these same properties also make PFAS an environmental hazard in that they are extremely mobile and persistent in the environment, will leach from soil to groundwater, and past contamination will remain for a long time and not breakdown. Further, as noted *supra,* PFAS resist degradation during the treatment process at Dalton Utilities' WPCPs, and in fact increase in concentration as these chemicals accumulate in and are discharged from the LAS into groundwater and surface waters.

PFAS are also toxic and known to be harmful to human health. As these chemicals are highly mobile and water soluble, groundwater and surface water are particularly vulnerable to contamination, and a main source of human exposure to PFAS is through ingestion of contaminated drinking water. As reflected by recent governmental and other comprehensive reviews and assessments,[4] the clear weight of the epidemiological, toxicological, and other evidence demonstrates that human exposure to PFAS through ingestion of contaminated drinking water can cause an array of serious health effects. The human diseases caused by exposure to PFAS include certain cancers, immunotoxicity, thyroid disease, liver disease, high cholesterol, pregnancy-induced hypertension, and ulcerative colitis. Indeed, long-term ingestion of even low levels of PFAS in drinking water, including below regulatory limits, can result in exposures substantially higher than those of the general population and result in adverse health effects.

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[3] EPA, *Region 4 Enforcement and Compliance Report,* FY 2001. Therefore, Dalton Utilities violates the CWA each time it applies wastewater effluent containing PFAS to the LAS.

4 *See, e.g.,* United States Environmental Protection Agency ("EPA"), *Drinking Water Health Advisory for Perfluorooctanoic Acid (PFOA)*, May 2016; EPA, *Drinking Water Health Advisory for Perfluorooctane Sulfonate Acid (PFOS)*, May 2016; US Department of Health and Human Services, National Toxicology Program, *Systematic Review of Immunotoxicity Associated with Exposure to PFOA or PFOS*, June 6, 2016; US Department of Health and Human Services, Agency For Toxic Substances and Disease Registry, *Draft Toxicological Profile for Perfluoroalkyls*, June 2018.

VIOLATIONS OF THE CLEAN WATER ACT

HISTORY OF CLEAN WATER ACT VIOLATIONS

Dalton Utilities is, and has been since at least 2006, in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), due to illegal unpermitted discharges of PFAS, including, but not limited to, perfluorooctanoic acid ("PFOA") and perfluorooctane sulfonic acid ("PFOS"),[5] from the LAS to the Conasauga River and/or its tributaries. These are not only unpermitted discharges but furthermore violate the prohibition on the discharge to surface waters contained in the LAS Permit. The requirement for an NPDES permit authorizing these discharges arose at the time that Dalton Utilities first knew or should have known that pollutants were being discharged into surface waters, and each day since that time is a violation of the CWA.

As early as 2006, the University of Georgia School of Forestry and Natural Resources ("UGA") conducted a study to determine the presence and distribution of PFAS in the Conasauga River above and below the LAS near Dalton ("UGA Study").[6] Based on surface water sampling conducted in March of 2006, the UGA study, published in 2008, found the highest concentrations of PFAS at two locations in the Conasauga River downstream of the LAS, and concluded that these elevated PFAS levels below the LAS (in comparison to upstream sampling locations) indicated the LAS was an "important point source of [PFAS] contamination." PFOA was detected downstream of the LAS at levels as high as 1150 parts per trillion ("ppt"), and PFOS levels were as high as 318 ppt. In fact, the UGA Study found that these concentrations of PFOA and PFOS, as well as other PFAS, were among the "highest ever recorded in surface waters."

In May 2009, EPA, pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, asked Dalton Utilities to investigate the potential for PFAS contamination originating from the Riverbend LAS.[7] In response, Dalton Utilities conducted sampling in and around the LAS from July through August 2009, including soil, groundwater, wastewater effluent and surface waters. The analytical results of this sampling demonstrated that the Conasauga River and a tributary thereto, Holly Creek, downstream of the LAS, had PFOA levels of up to 400 ppt and PFOS levels as high as 700 ppt.[8] Furthermore, LAS groundwater had PFOA levels as high as 4400 ppt and PFOS levels up to 520 ppt, and the effluent from the LAS sprayheads had PFOA levels of up to 800 ppt and PFOS levels as high as 400 ppt.

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[5] Other PFAS consistently found in sampling of the Conasauga River and its tributaries around and downstream from the LAS include "shorter chain" PFAS compounds such as Perfluorobutanesulfonic Acid ("PFBS"), Perfluorohexanoic Acid ("PFHxA"), Perfluorohexanesulfonic Acid ("PFHxS"), and Perfluoroheptanoic Acid ("PFHpA"). All of these PFAS are commonly used by the carpet industry as stain or water repellants.

[6] Konwick, *et al.*, *Concentrations and Patterns of Perfluorinated Compounds in Georgia (USA) Surface Waters Near and Distant to a Major Use Source,* Environmental Toxicology and Chemistry, Vol. 27:10 (Oct. 2008).

[7] Prior to this Section 308 request, EPA had, in March of 2009, sampled drinking water from several public water systems downstream of the LAS, including the City of Rome's, for PFAS, and sampled Rome's drinking water again for PFAS in January of 2010. Analytical results of this sampling demonstrated that Rome's drinking water was contaminated with PFAS, and PFOA and PFOS in particular, above EPA's 2016 Drinking Water Health Advisory.

[8] Elevated PFAS levels, and PFOA and PFOS in particular, were also found in Dalton Utilities' compost, sewage sludge, and soil from the LAS. As discussed in Section II.D, *infra,* this sludge contamination demonstrates Dalton Utilities' failure to enforce its Industrial Pretreatment Program in violation of its LAS Permit and the CWA.

In October of 2009, EPA sent a second CWA Section 308 information request to Dalton Utilities for further characterization of PFAS contamination in and around the LAS, including wastewater effluent, private drinking water wells, and in the Conasauga River and Holly Creek. Dalton Utilities conducted sampling between October of 2009 and August of 2010, and the analytical results submitted to EPA demonstrated that the Conasauga River downstream of the LAS had PFOA levels as high as 358 ppt and PFOS levels as high 665 ppt, and sampling at the confluence of Holly Creek and the Conasauga River showed PFOA levels of up to 310 ppt and PFOS levels of up to 1200 ppt.[9] LAS groundwater remained significantly contaminated with PFAS, with PFOA at levels as high as 6500 ppt and PFOS at levels as high as 14,000 ppt.

Between July 9-11, 2012, EPA conducted a "Conasauga River [PFAS] Study" consisting of additional surface water sampling in the Conasauga River and its tributaries in and around the LAS, as well as the Oostanaula, Etowah, and Coosa Rivers downstream. Analytical results of this sampling showed elevated levels of PFAS in all surface waters downstream of the LAS as compared to samples taken upstream of the LAS, including PFOA as high as 210 ppt and PFOS as high as 180 ppt in the Conasauga River, and PFOA at 180 ppt and PFOS at 110 ppt in Drowning Bear Creek, a tributary to the Conasauga River. Elevated PFAS levels above EPA's 2016 Drinking Water Health Advisory ("HA") of 70 ppt for PFOA and PFOS combined were also detected in several samples taken in the Oostanaula River, the primary source of the City of Rome's drinking water, downstream of its confluence with the Conasauga.

CONTINUING VIOLATIONS OF THE CLEAN WATER ACT

I. DISCHARING POLLUTANTS TO SURFACE WATERS WITHOUT AN NPDES PERMIT

Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants from a point source to waters of the United States except in compliance with, among other conditions, an NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. Each discharge that is not authorized by a permit constitutes a separate violation of the CWA. 33 U.S.C. § 1319(d).

As demonstrated by the 2008 UGA study, Dalton Utilities' own sampling conducted pursuant to EPA's CWA Section 308 requests in 2009 and 2010, and EPA's 2012 surface water sampling, Dalton Utilities has, since as early as 2006, and every day since at least June of 2015, been in continuous violation of the CWA, 33 U.S.C. § 1311, by discharging PFAS from the LAS, the sprayheads located thereon, and/or ditches and drainage channels that flow from the LAS to these surface waters, into the Conasauga River and/or tributaries thereto, which constitute waters of the State of Georgia and the United States, without an NPDES Permit authorizing such discharges. Dalton Utilities has also violated 33 U.S.C. § 1311 by discharging PFAS from the LAS, the sprayheads located thereon, and/or ditches and drainage channels that flow into the

[9] Elevated PFAS levels were again detected in Dalton Utilities' compost and sewage sludge, and LAS groundwater contained PFOA at levels as high as 6500 ppt, and PFOS at levels of up to 14,000 ppt. As discussed in Section II.D, *infra*, this sludge contamination demonstrates Dalton Utilities' failure to enforce its Industrial Pretreatment Program in violation of its LAS Permit and the CWA.

groundwater beneath the LAS, which is hydrologically connected to the Conasauga River and/or its tributaries, and constitutes the functional equivalent of a direct discharge to these surface waters.

On at least the following dates, analytical results from sampling of surface waters at the specified locations at and downstream from the LAS confirm that Dalton Utilities' illegal and unpermitted discharges of PFAS from the LAS continue and are ongoing:

- June 19-24, 2016 (EPA) [10]
    - June 19, 2016
        - Conasauga River at Airport Road (Sample ID 1087)
        - Holly Creek above confluence with Conasauga (Sample ID 1088)
        - Drowning Bear Creek above confluence with Conasauga (1089)
    - June 20, 2016
        - Conasauga River - Loopers Bridge South of Dalton (Sample ID 1090)[11]
        - Unnamed Tributary to Conasauga (34.664430 N, 84.900540 W) (Sample ID 1096)
    - June 21, 2016
        - Conasauga River at Tilton Bridge near Tilton, Georgia (Sample ID 1097)[12]
        - Howell Creek above confluence with Conasauga River (Sample ID 1098)
        - Polecat Creek above confluence with Conasauga River (Sample ID 1101)
    - June 22, 2016
        - Oostanaula River at US Highway 41 near Resaca, Georgia (Sample ID 1105)[13]
    - June 23, 2016
        - Oostanaula River at Reeves Station Road near Calhoun, Georgia (Sample ID 1112)[14]
    - June 24, 2016
        - Oostanaula River 4.5 miles upstream of Rome (Coker's Farm) (Sample ID 1115)[15]

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[10] In August of 2016 interoffice correspondence regarding the results of this 2016 sampling, EPA employees noted, *inter alia,* that "many of the samples exceeded EPA's [2016] combined health advisory for PFOA and PFOS," and that "the highest concentrations all flow from the LAS."

[11] Multiple samples taken on June 20, 2016 in the Conasauga River downstream of the LAS showed elevated levels of PFAS.

[12] Multiple samples taken on June 21, 2016 in the Conasauga River downstream of the LAS showed elevated levels of PFAS.

[13] Multiple samples taken on June 22, 2016 in the Oostanaula River downstream of the LAS showed elevated levels of PFAS.

[14] Multiple samples taken on June 23, 2016 in the Oostanaula River downstream of the LAS showed elevated levels of PFAS.

[15] Multiple samples taken on June 24, 2016 in the Oostanaula River downstream of the LAS showed elevated levels of PFAS.

- Coosa River at Heritage Park at Rome, Georgia (Sample ID 1120)

- July 19-21, 2016 (Dalton Utilities)

  - July 19, 2016 (Sample Numbers 16-18, taken at surface water locations designated by Dalton Utilities)
  - July 20, 2016 (Sample Numbers 9-15, taken at surface water locations designated by Dalton Utilities)
  - July 21, 2016 (Sample Numbers 1-8, taken at surface water locations designated by Dalton Utilities)

- November 20-21, 2019 (Rome, GA sampling)

  - November 20, 2019
    - Oostanaula River at Primary Intake to RWSD

  - November 21, 2019
    - Conasauga River at Tilton Bridge
    - Oostanaula River at Davis Loop Boat Launch
    - Coosa River Lock and Dam

Furthermore, Dalton Utilities discharged wastewater from the LAS into waters of the State without a permit, including the Conasauga River and tributaries thereto, on the following dates as found by the Georgia Department of Environmental Resources' Environmental Protection Division ("GA EPD"):

- July 15, 2016
- September 22, 2017
- April 16, 2018
- February 22, 2019
  - Unnamed Tributary to Mill Creek
- February 22, 2019
  - Tar Creek
- February 22, 2019
  - McClellan Creek

GA EPD has also notified and/or taken enforcement action against Dalton Utilities for unpermitted discharges of wastewater from the LAS into waters of the State, including the Conasauga River and tributaries thereto, on at least the following dates: [16]

[16] The Georgia Water Quality Control Act is not comparable to the CWA, and thus any administrative enforcement action taken by GA EPD under the GWQCA cannot serve to preclude a CWA citizen's suit. *Leakey v. Corridor Materials, LLC,* 839 F.Supp.2d 1340, 1350 (M.D. Ga. 2012); *Kendall v. Thaxton Road LLC,* 2013 WL 210892 at *4 (N.D. Ga. Jan. 18, 2013). The undersigned has submitted a Georgia Open Records Act ("GORA") request for more information about the illegal discharges giving rise to GA EPD enforcement actions, and reserves the right to, if necessary, supplement this Notice with additional information.

- August 13, 2015
- August 25, 2016
- March 31, 2017
- July 20, 2017
- September 25, 2017
- May 22, 2018
- December 13, 2018
- July 23, 2019
- September 24, 2019
- December 20, 2019
- March 5, 2020
- May 15, 2020

II. VIOLATIONS OF LAND APPLICATION SYSTEM PERMIT NO. GAJ020056

As referenced above, Dalton Utilities' Riverbend LAS is covered by and governed by the terms and conditions of Land Application System Permit No. GAJ020056, which became effective on December 1, 2015 and expired on March 31, 2020.[17] As set forth below, Dalton Utilities has violated several conditions of its LAS Permit, each violation of which constitutes a separate violation of the CWA. 33 U.S.C. § 1319(d).

A. Condition II.A.12 – "No Discharge System"

Condition II.A.12 of the LAS Permit provides, in pertinent part, that the "wastewater and disposal system must be maintained as a no-discharge to surface waters" (emphasis added). As set forth in Section I, *supra,* Dalton Utilities has, since as early as 2006, and every day since at least June of 2015, including the specific instances identified in Section I of this Notice, been in continuous violation of this effluent limitation by discharging PFAS from the Riverbend LAS into the Conasauga River and/or tributaries thereto.

B. Condition II.A.1 – Facility Operation

Condition II.A.I of the LAS Permit provides, in pertinent part:

> The permittee shall at times maintain in good working order and operate as efficiently as possible all treatment or control facilities (and related appurtenances) which are installed or used by the permittee to achieve compliance with the terms and conditions of this permit.

Dalton Utilities has violated this condition since at least June of 2015 by, among other acts/omissions, failing to maintain and operate the LAS in such a manner as to prevent the discharge of PFAS to surface waters, including the Conasauga River and/or tributaries thereto, as set out in Sections I and II.A. of this Notice.

[17] Dalton Utilities applied for reissuance of its LAS Permit in September of 2019; however, it is not clear if the Riverbend LAS Permit has been reissued at the time of this Notice of Intent.

C. Condition II.A.9 – Notice Concerning Endangering Waters of the State

Condition II.A.9 of the LAS Permit provides:

> Whenever, because of an accident or otherwise, any toxic or taste or color producing substance, or any other substance which would endanger downstream users of the waters of the State or would damage property, is discharged into such waters, or is so placed so that it might flow, be washed, or fall into them, it shall be the duty of the person in charge … at the time to forthwith notify EPD in person or by telephone of the location and nature of the danger, and it shall be such person's further duty to immediately take all reasonable and necessary steps to prevent injury to property and downstream users of said water.

Dalton Utilities has violated this condition since at least June of 2015 by, among other acts/omissions, failing to notify EPD of the location and nature of repeated and ongoing discharges of toxic PFAS from the LAS into waters of the State, including the Conasauga River and/or tributaries thereto, as set out in Sections I and II.A of this Notice, and by failing to immediately take all reasonable and necessary steps to prevent injury to property and downstream users of such water as a result of these illegal discharges.

D. Failure to Enforce Approved Industrial Pretreatment Program Standards

Part III.A. of Dalton Utilities' LAS Permit provides that the "the permittee's approved pretreatment program shall be enforceable through this permit," and requires Dalton Utilities to, among other things, administer its approved pretreatment program by:

> Enforcing and obtaining appropriate remedies for noncompliance by any industrial user with any applicable pretreatment standard or requirement defined by Section 307(b) and (c) of the [CWA], 40 CFR Part 403.5 and 403.6 or any State or local requirement, which is more stringent.

LAS Permit, Part III.A.2.b. Dalton Utilities is also required to revise "the adopted local limits based on technical analyses to ensure the local limits continue to prevent":

1. Interference with the operation of the POTW;
2. Pass-through of pollutants in violation of this permit;
3. Municipal sludge contamination; and
4. Toxicity to life in the receiving stream.

LAS Permit, Part III.A.2.c; GA. COMP. R. & REGS. § 391-3-6-0(9)(a) ("The POTW shall have authority ... to immediately and effectively halt or prevent any discharge of pollutants to the POTW which reasonably appears to present and imminent endangerment to the health or welfare of persons"); *see also* Dalton Utilities Sewer Use Rules and Regulations ("SURR"), § 2.4.1 ("No User shall contribute or cause to be contributed directly or indirectly to the POTW any Pollutant or Wastewater that causes Pass Through or Interference"); 40 C.F.R. § 403.5 (Prohibited

Discharges) ("A User may not introduce into a POTW any pollutant(s) which cause Pass Through or Interference").

Dalton Utilities has violated, and continues to violate, Part II.A.2.b, 2.c, and 2.d of the LAS Permit, Georgia law, its own SURR, and the CWA continuously since at least June of 2015 with regard to numerous industrial users by failing to require compliance with these users' pretreatment permits and national pretreatment standards. This includes the failure to prevent and/or enforce prohibited discharges, to revise local limits to prevent Pass-Through of pollutants, and PFAS in particular, through the Dalton collection and disposal system, and the LAS in particular, as well as the contamination of municipal sludge with PFAS,[18] and to halt or prevent discharges of PFAS into the POTW which present an imminent and substantial endangerment to the health and welfare of persons.

III. VIOLATIONS OF THE GEORGIA WATER QUALITY CONTROL ACT

Pursuant to the Georgia Water Quality Control Act, O.C.G.A. § 12-5-30, *et seq.* ("GWQCA"), it is the declared policy of the State of Georgia that:

> that the water resources of the state shall be utilized prudently for the maximum benefit of the people, in order to restore and maintain a reasonable degree of purity in the waters of the state and an adequate supply of such waters, and to require where necessary reasonable usage of the waters of the state and reasonable treatment of sewage, industrial wastes, and other wastes prior to their discharge into such waters.

O.C.G.A. §12-5-21(a). To effectuate this policy, the GWQCA provides, *inter alia*, that it "shall be unlawful to use any waters of the state for disposal of sewage, industrial wastes, or other wastes …." O.C.G.A. § 12-5-29(a).

Dalton Utilities' conventional treatment technology cannot remove PFAS from its wastewater prior to application at the LAS. Thus, in addition to the violations of the CWA for discharging without a permit discussed in Section I of this Notice, Dalton Utilities has also, since as early as 2006, and every day since at least June of 2015, violated the GWQCA, O.C.G.A. § 12-5-29(a), and the CWA, by using waters of the State for disposal of sewage, industrial wastes, or other wastes.

CONCLUSION

Thank you for your prompt attention to the ongoing, serious violations of federal law and permitting requirements. Please be advised that Mr. Johnson, at the expiration of sixty (60) days from the date of this letter, intends to file a citizen suit against Dalton Utilities under Section 505(a)(1) of the CWA, 33 U.S.C. § 1365(a)(1), for the violations set forth above. In addition to the violations explicitly set forth herein, this Notice covers all CWA violations of the same type evidenced by information which becomes available after the date of this Notice. Pursuant to the

[18] *See* FNs 8 & 9, *supra.*

CWA, we will seek civil penalties for the violations of up to $55,800 per day for each violation, attorney's fees and costs, as well as an injunction against continued violations.

Any and all communication related to this matter should be directed to Gary A. Davis and James S. Whitlock at the address and telephone number listed at the top of this letter.

Respectfully,

James S. Whitlock

cc: William P. Barr
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530-0001

Co-Counsel (*via email*)